IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.128 OF 2006

Shri Santu Trimbak Gaikar, .. Petitioner.
Vs
Shri Bhaskar Atmaram Thange, .. Respondent

Mr S.D.Thokade, for the petitioner.
Mr S.M.Oak, for the respondent.

CORAM : D.B.BHOSALE,J.
DATE : 28.08.2006

PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr Oak, learned counsel, waives service for the respondent. By consent, rule is heard forthwith.

3. The petitioner has impugned the order dated 28.11.2005 passed by Ist Ad-hoc Addl. District Judge, Kalyan, on the application at Exhibit-33 in Civil Appeal No.40 of 2000. By that application, the applicant had prayed for allowing him to lead additional evidence. While rejecting the application, the trial Court framed the following issues.

> "Whether appellant is entitled to produce additional evidence, i.e. certified copies of judgment and decree from civil appeal no.25/98 and 27/98 and copy of order passed by Hon'ble High Court, in Second Appeal No.367/2004?"

4. The learned counsel for the parties state that the application at Exhibit-33 may be allowed, by consent. Mr Oak, learned counsel for the respondent, however, submitted that except the production of the aforesaid document, the petitioner shall not be given liberty to lead oral evidence or any other evidence in support thereof. Mr Thokade, learned counsel for the petitioner, states that the petitioner shall not crave leave to lead any other evidence except the production of certified copies of the judgment and order mentioned in the issue aforestated. His statement is accepted. It is very pertinent to note that similar application was filed by respondent no.1 seeking leave to produce the very same judgment and his application was also rejected. The application Exhibit-33 is accordingly allowed. However, it is made clear that except the production of the certified copies as aforestated, the petitioner shall not be allowed to lead any other evidence either oral or otherwise. The appeal court shall deal with the appeal as expeditiously as possible and preferably within a period of six months from the date of receipt of this order on merits in accordance with law. With these observations, rule is disposed of.

(D.B.BHOSALE,J.)